



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: February 3, 2014

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Steven L. Medlin, AICP, Planning Director *SM Medlin*
Subject: *Unified Development Ordinance* Text Amendment, Density Revisions to Article 6 (TC1200012)

Summary. Text amendment TC1200012 is a request by Horvath Associates to modify certain density standards within Article 6 of the *Unified Development Ordinance* (UDO). The original proposal, as indicated in the attached application (Attachment A), would have established a new roadway density bonus for the Suburban Tier, similar to the roadway density bonus already established for the Urban Tier. The applicant's proposed bonus would: apply to parcels within the Suburban Tier along limited- or controlled-access rights-of-way; limit the bonus to parcels with direct access to service roads, intersections, or interchanges of the rights-of-way; and allow for the portion of right-of-way beyond 60 feet in width to be added into the parcel area for determining density.

At its May 1, 2013, meeting, the Joint City-County Planning Committee (JCCPC) discussed the proposed amendment application. Staff reviewed the application further and, after discussions with the applicant, came to the conclusion that the proposed modifications may allow application of the density bonus that were not anticipated for its use; and conversely, may not allow the application of the bonus in an area where it would be suitable.

Subsequently, revisions were suggested by staff, and accepted by the applicant, to propose the following:

1. Adjust current density allowances to remove fractions of dwelling units;
2. Modify the existing Residential Suburban-Multifamily (RS-M) Major Roadway Density Bonus to include frontage along service roads;
3. Allow higher densities in the RS-M and RU-M districts, but only with approval by the governing body through rezoning with a development plan;
4. Increase the density in the Residential Compact (RC) District to maintain consistency with proposed higher densities in the RU-M District and existing densities in Design Districts; and

5. Allow the use of density bonuses for multifamily development in nonresidential districts in the Suburban and Compact Neighborhood Tiers, consistent with procedures currently utilized within the Urban Tier.

Recommendation. Staff recommends approval of the attached ordinance to amend density requirements within Article 6 of the *Unified Development Ordinance* (TC1200012). The Planning Commission recommended approval, 11-1, of the text amendment on December 10, 2013.

Background. TC1200012 is a privately-initiated text amendment application submitted by Horvath Associates. The applicant's intent is to establish a density bonus within the Suburban Tier similar to the major roadway density bonus available for property within the Urban Tier, but with limitations on which properties it could be applicable. The JCCPC commented on the application on May 1, 2013; and although there was general support for some type of bonus, it was understood by staff that the parameters by which the bonus should be allowed by-right needed further review. Additional considerations were also suggested, such as focusing on mass-transit locations and affordable housing. An overlay district was suggested as a possible alternative method to achieve higher density.

Staff considered the comments generated at the meeting and determined that, although there appeared to be support for a by-right density bonus, the development of suitable parameters, or limitations, on how and where it could be applied was insufficient; or, in the case of suggestions that focused on mass-transit and affordable housing, are addressed through other ongoing processes such as the application of the Compact Neighborhood Tier standards for mass transit-related development in the Suburban Tier, and the affordable housing work program item. Therefore, staff considered a legislative procedure to achieve higher densities. An overlay district would provide for such a legislative process, but staff subsequently determined that an overlay district was not necessary because a legislative process to achieve higher densities already exists within the UDO, as described below.

The UDO currently establishes minimum and maximum densities for development within the Residential Urban–Multifamily (RU-M) and Residential Suburban–Multifamily (RS-M) zoning districts. Two maximum densities are allowed; a lower maximum is allowed by-right and a higher maximum may be achieved only through approval of a development plan. Therefore, instead of the applicant-proposed, by-right density bonus in the Suburban Tier with limitations, the amendment to raise the maximum density allowed via approval of a development plan allows the governing bodies to retain legislative authority in approving higher densities while providing additional zoning tools to allow for higher density developments.

Staff reviewed the suggested changes with the applicant. The applicant informed staff that the proposed revisions, as detailed below, were acceptable. These revisions were presented to the JCCPC for review and comment on November 6, 2013, and received a recommendation to initiate the public hearing process. No changes to the draft were suggested by the JCCPC. The Planning Commission held a public hearing on the text amendment on December 10, 2013, and recommended approval 11-1. The Durham Board of County Commissioners will consider this text amendment at its February 10, 2014, meeting.

Issues. The draft text amendment (Attachment B) provides for the ability to request additional density in the RS-M and RU-M districts, and the application of the existing density bonuses to multifamily development in non-residential districts within the Suburban and Compact Neighborhood Tiers. It also modifies the existing RS-M density bonus to include frontage along service roads, and removes density fractions.

1. The proposal does not change maximum densities allowed without a development plan for the RS-M and RU-M zoning districts, but does increase the maximum densities in those zoning districts with approval of a development plan, as shown in the tables below.

Dimensional Standard	RS-20		RS-10		RS-8		RS-M		
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max. Without Development Plan	Max. With Development Plan (See paragraph 3.5.6)
Residential Density (units per acre)	---	2.0	---	3.5 4.0	---	5.0	---	8.0	10.5 18.0

	RU-5		RU-5(2)		RU-M		
Dimensional Standard	Min.	Max.	Min.	Max.	Min.	Max. without a Development Plan	Max. with a Development Plan (see paragraph 3.5.6)
Residential Density (units per acre)							
Project Under 4 Acres	---	7.4 8.0	---	7.4 8.0	---	12.0	17.5 20.0
Project 4 Acres or Greater	6.0	8.7 8.0	6.0	8.7 8.0	8.0	12.0	17.5 20.0

- a. The proposed increases provide the following:
 - 1) Consistency with the *Comprehensive Plan*: Table 2-1 within Chapter 2, Land Use Element, allows for densities as high as 20 dwelling units (DU)/acre within the Suburban and Urban Tiers. Raising the maximum densities aids in implementing this land use policy. Setting the maximum Suburban Tier density at 18 DU/acre with a development plan would still allow a development to achieve 20 DU/acre, but only with the application of such density bonuses as those for affordable housing or for sites along major roadways.
 - 2) Legislative oversight and flexibility in permitting higher densities: The ability to allow higher densities in these districts only with a development plan has been a method in the UDO since the Ordinance became effective in 2006. Higher maximum densities allow the governing bodies to utilize another method, in addition to existing zoning methods such as Planned Density Residential (PDR) or Design Districts, in order to respond to the need or appropriateness for higher densities on specific sites, while maintaining legislative authority to approve such proposals.
 - b. As shown in the above tables and within Attachment B, fractions are eliminated. Although calculations based on partial acreage ultimately result in fractions, the base number should not. For example, if an applicant requests to develop one acre at 10.5 DU/acre, the additional 0.5 dwelling unit cannot actually be built, and thus the project will effectively be developed at 10 DU/acre. All adjustments maintain consistency with the *Comprehensive Plan*, and result in a change in one dwelling unit for every two acres.
2. Multifamily development has been permitted within certain non-residential districts since before the UDO became effective. Paragraph 6.10.2, Residential Development in Nonresidential Districts, sets maximum densities for each zoning district by Tier. The current standards allow the Residential Urban (RU) density bonuses and other options in paragraph 6.4.3, Residential Density, to apply to residential development in non-residential districts within the Urban Tier. In contrast, density bonuses, except the Affordable Housing Density Bonus, are not available for use by multifamily development in non-residential districts in the Suburban or Compact Neighborhood Tiers (except for the Commercial Infill (CI) District in the Compact Neighborhood Tier). For consistency, the proposed amendment allows the application of the RS-M density bonus to multifamily development in certain non-residential districts in the Suburban Tier, and RU density bonuses and other options to multifamily development in the same non-residential districts in the Compact Neighborhood Tier, as shown below.

Additionally, as previously discussed, all fractional densities have been eliminated.

District	Rural	Suburban	Urban	Compact
CI	---	---	14 ^{1,2}	14 ^{1,2}
CN	0.2	8.7 8 ^{1,3}	10.5 11 ^{1,2}	14 ^{1,2}
OI	---	10.5 11 ^{1,3}	14 ^{1,2}	17.5 18 ^{1,2}
CG	0.2	10.5 11 ^{1,3}	14 ^{1,2}	17.5 18 ^{1,2}

¹ Density can be increased through use of the Sec. 6.6, Affordable Housing Density Bonus.

² Density can be increased through use of the options available under paragraph 6.4.3, Residential Density.

³ For multifamily development, density can be increased through use of paragraph 6.3.3B, RS-M District Major Roadway Density Bonus.

3. Other changes proposed are:

- The maximum density for the Residential Compact (RC) District in the support area is increased from 17.5 to 20.0 DU/acre to remain consistent with the maximum density of the RU-M District, and as supported within the *Comprehensive Plan*.
- The existing RS-M Major Roadway Density Bonus, which allows a one DU/acre bonus, is amended to also allow this bonus to apply to property that has at least 500 feet of frontage along a service road and utilizes the service road for access.
- The densities within the Commercial Center (CC) District are modified to be consistent with the maximum densities of the Commercial General (CG) District.

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Attachments

Attachment A: Application by Horvath Associates

Attachment B: An Ordinance to Revise Density Requirements within Article 6 of the *Unified Development Ordinance* (TC1200012)

Attachment C: Planning Commission Comments